

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 5-6, 11,12, and 51-52 are requested to be cancelled.

Claims 1, 7, 13, 16, 50, and 53-54 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate status identifier.

After amending the claims as set forth above, claims 1-3, 7-9, 13-14, 16-18, 39-50, and 53-54 are now pending in this application.

Statement of Substance of Interview

On July 30, 2009, attorney Matthew J. Swietlik conducted a telephonic interview with Examiner Lalita M. Hamilton regarding the present application. Applicants thank the Examiner for discussing the present application with Applicants. The parties discussed the references cited in the Office Action dated April 1, 2009 (Hibbert et al. (U.S. Patent Appl. Publ. No. 2006/0074793), Schwartz et al. (U.S. Patent Appl. Publ. No. 2004/0083164)), and presently pending claim 1. No agreement was reached as to the allowability of the claims. No exhibits were shown and no demonstrations were conducted.

Claim Rejections – 35 U.S.C. § 101

On page 2 of the Office Action, claims 1-6, 13-14, 16-18, and 50-54 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. With respect to claims 1-6, 13-14, and 50-54, the Examiner indicated that “a proper process must be tied to another statutory class of transform underlying subject matter to a different state or thing.” Office Action at p. 2.

Claims 1, 13, 50, and 53-54 have been amended to recite “storing the first set of loan data in a computer database” and are properly tied to another statutory class.

With respect to claims 16-18, the Examiner indicated that “the system claims must include hardware limitations to be considered statutory.” Office Action at p. 3. Claim 16 has been amended to include a “computer database.”

Claims 1-6, 13-14, 16-18, and 50-54 are believed to be in compliance with 35 U.S.C. § 101. Withdrawal of the rejection of claims 1-6, 13-14, 16-18, and 50-54 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103(a)

On page 3 of the Office Action, claims 1-18 and 50-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hibbert et al. (U.S. Patent Appl. Publ. No. 2006/0074793) (hereinafter, “Hibbert”) in view of Schwartz et al. (U.S. Patent Appl. Publ. No. 2004/0083164) (hereinafter, “Schwartz”). For the reasons that follow, Applicants respectfully submit that the rejected claims are patentable over the cited references.

Claim 1 has been amended and recites a combination including, among other limitations,

comparing [a] first set of loan data and [a] second set of loan data .
... to identify at least one difference between the first set of data
and the second set of data in a group of material terms, wherein the
business rules define the group of material terms;

...

determining a yield adjustment for the loan based on the at least
one difference; and

determining a fee to be charged to the seller based on the at least
one difference.

Claim 1 has been amended to recite limitations similar to those previously presented as parts of dependent claims 5 and 6, both now cancelled. In connection with the limitation of claim 1 providing for “determining a yield adjustment for the loan based on the at least one

difference,” the Examiner previously relied on paragraphs [0125]-[0126] of Hibbert in rejecting former dependent claim 5. (Office Action dated 12/18/2006). However, Applicants submit that neither Hibbert nor Schwartz, alone or in any proper combination, discloses determining a yield adjustment for a loan based on at least one difference between first and second sets of loan data.

The portions of Hibbert relied on by the Examiner are reproduced below:

[0125] Transaction management system 50, in one embodiment, also provides an on-line expense reserve form facilitating management of expenses on a transaction-level basis. In one embodiment, the deal manager is responsible for maintaining the expense reserve form. The deal manager initially completes the form by estimating costs associated with the transaction and entering such estimated costs in appropriate fields in the form. Completion of the expense reserve form triggers notification module 53 to notify the trader that the expense reserve form associated with the transaction is complete and available for review and approval.

[0126] The trader accesses the deal home page presented by transaction management system 50 to link to the expense reserve form. In one embodiment, transaction management system 50 presents an interface facilitating entry of the trader's approval or rejection of the tape analyst's expense estimates. Approval of the expense reserve form triggers notification module 53 to transmit an email to the super deal manager that an expense reserve form is completed and available for review. Similarly, the super deal manager accesses the expense reserve form and indicates an approval or rejection of the expense reserve form, notification module 53 transmits an email to the middle office contact providing notification of the expense reserve form. The middle office contact accesses the approved expense reserve form and manually completes the reserve account information.

Hibbert at ¶¶ [0125] – [0126]. The above portions of Hibbert deal with estimating costs associated with transactions and entering the costs on an expense reserve form. However, none of these estimated costs involves determining a yield adjustment for a loan. Further, none of the estimated costs are determined based on at least one difference between first and second sets of

loan data, as provided by claim 1. The limitation of determining a yield adjustment for a loan based on at least one difference between first and second sets of loan data appears to be completely missing from the cited references.

Claim 1 further provides for determining a fee to be charged to the seller based on the at least one difference. The Examiner again relied on paragraphs [0125]-[0126] of Hibbert for a teaching of this limitation. However, as pointed out above, paragraphs [0125]-[0126] of Hibbert deal with estimating costs associated with transactions and entering the costs on an expense reserve form. The limitation of determining a fee to be charged to the seller based on at least one difference between first and second sets of loan data appears to be completely missing from the cited references.

Further yet, Applicants maintain that, as discussed in Applicants previous response, the cited combination does not teach or suggest comparing a first set of loan data (received prior to underwriting and closing) and a second set of loan data (received after closing – associated with a delivery process for the loan). However, to further prosecution of the present application, Applicants have further amended claim 1 to provide that the materials terms that are compared between the first and second sets of loan data include at least a loan term, an amortization type, a property type, and a loan purpose. Applicants submit that neither Hibbert nor Shwartz teaches or suggests making such a comparison.

For at least those reasons presented above, Applicants submit that claim 1 is patentable over the cited references. Withdrawal of the rejection of independent claim 1, and corresponding dependent claims 2-3, is respectfully requested.

Independent claim 7 has been amended and recites a combination including, among other limitations,

computer-implemented means . . . including a set of computer-implemented business rules to identify at least one difference between the first set of data and the second set of data in a group of

material terms, wherein the business rules define the group of material terms, and wherein the material terms include at least a loan term, an amortization type, a property type, and a loan purpose;

. . .

computer-implemented means for determining a yield adjustment for the loan based on the at least one difference; and

computer-implemented means for determining a fee to be charged the seller based on the at least one difference.

Independent claim 7 is believed to be patentable over the cited references for the same reasons that claim 1 is patentable. Withdrawal of the rejection of independent claim 7, and corresponding dependent claims 8-9, is respectfully requested.

Independent claim 13 has been amended and recites a combination including, among other limitations,

comparing the first set of loan data to the second set of loan data at computer-implemented comparison logic to . . . identify at least one difference between the first set of data and the second set of data in a group of material terms, wherein the business rules define the group of material terms, and wherein the material terms include at least a loan term, an amortization type, a property type, and a loan purpose;

determining a price for the mortgage loan based on at least one of the first set of loan data and the second set of loan data; and

upon identifying the at least one difference between the first set of loan data and the second set of loan data, determining a yield adjustment for the loan and a fee to be charged the seller based upon the at least one difference and processing the second set of loan data using the underwriting logic.

Independent claim 13 is believed to be patentable over the cited references for the same reasons that claim 1 is patentable. Withdrawal of the rejection of independent claim 13, and corresponding dependent claim 14, is respectfully requested.

Independent claim 16 has been amended and recites a combination including, among other limitations,

computer-implemented comparison logic . . . using a set of computer-implemented business rules to identify at least one difference between the first set of data and the second set of data in a group of material terms, wherein the business rules define the group of material terms, and wherein the material terms include at least a loan term, an amortization type, a property type, and a loan purpose; and

computer-implemented pricing logic for

determining a price for the mortgage loan based on at least one of the first set of loan data and the second set of loan data; and

determining a price change based upon the at least one difference identified between the first set of loan data and the second set of loan data.

Independent claim 16 is believed to be patentable over the cited references for the same reasons that claim 1 is patentable. Withdrawal of the rejection of independent claim 16, and corresponding dependent claims 17-18, is respectfully requested.

Independent claim 50 has been amended and recites a combination including, among other limitations,

comparing the first set of loan data and the second set of loan data using at least one computer-implemented business rule to determine a set of differences between the first set of loan data and the second set of loan data in a group of material terms, wherein the at least one business rule is configured to define the group of material terms, and wherein the group of material terms includes at least one of an occupancy type, product type, amortization type, loan term, property type, loan purpose, property sales price, and appraised value;

. . .

generating a yield adjustment and a fee to be charged the seller for the mortgage loan based on the set of differences and the second set of loan data.

Independent claim 50 is believed to be patentable over the cited references for the same reasons that claim 1 is patentable. Withdrawal of the rejection of independent claim 50, and corresponding dependent claims 51-52, is respectfully requested.

Independent claim 53 has been amended and recites a combination including, among other limitations,

comparing the first set of loan data and the second set of loan data at computer-implemented comparison logic to . . . identify at least one difference between the first set of data and the second set of data in a group of material terms, wherein the business rules define the group of material terms, and wherein the material terms include at least a loan term, an amortization type, a property type, and a loan purpose;

. . .

determining a yield adjustment for the loan based on the at least one difference; and

determining a fee to be charged to the seller based on the at least one difference.

Independent claim 53 is believed to be patentable over the cited references for the same reasons that claim 1 is patentable. Withdrawal of the rejection of independent claim 53 is respectfully requested.

Independent claim 54 has been amended and recites a combination including, among other limitations,

comparing the first set of loan data and the second set of loan data . . . to identify at least one difference between the first set of data and the second set of data in a group of material terms, wherein the business rules define the group of material terms;

. . .

determining a yield adjustment for the loan based on the at least one difference; and

determining a fee to be charged to the seller based on the at least one difference.

Independent claim 54 is believed to be patentable over the cited references for the same reasons that claim 1 is patentable. Withdrawal of the rejection of independent claim 54 is respectfully requested.

* * *

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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